

1 QUINN EMANUEL URQUHART & SULLIVAN, LLP

2 Diane M. Doolittle (CA Bar No. 142046)  
dianedoolittle@quinnemanuel.com  
3 555 Twin Dolphin Drive, 5th Floor  
Redwood Shores, CA 94065  
4 Telephone: (650) 801-5000  
Facsimile: (650) 801-5100

Andrew H. Schapiro (admitted *pro hac vice*)  
andrewschapiro@quinnemanuel.com  
191 N. Wacker Drive, Suite 2700  
Chicago, IL 60606  
Telephone: (312) 705-7400  
Facsimile: (312) 705-7401

6 Stephen A. Broome (CA Bar No. 314605)  
stephenbroome@quinnemanuel.com  
7 Viola Trebicka (CA Bar No. 269526)  
violatrebicka@quinnemanuel.com  
8 865 S. Figueroa Street, 10th Floor  
Los Angeles, CA 90017  
9 Telephone: (213) 443-3000  
10 Facsimile: (213) 443-3100

Josef Ansorge (admitted *pro hac vice*)  
josefansorge@quinnemanuel.com  
1300 I. Street, N.W., Suite 900  
Washington, D.C. 20005  
Telephone: 202-538-8000  
Facsimile: 202-538-8100

11 Jonathan Tse (CA Bar No. 305468)  
12 jonathantse@quinnemanuel.com  
50 California Street, 22nd Floor  
13 San Francisco, CA 94111  
14 Telephone: (415) 875-6600  
Facsimile: (415) 875-6700

Jomaire A. Crawford (admitted *pro hac vice*)  
jomairecrawford@quinnemanuel.com  
51 Madison Avenue, 22nd Floor  
New York, NY 10010  
Telephone: (212) 849-7000  
Facsimile: (212) 849-7100

15 *Attorneys for Defendant Google LLC*

16 UNITED STATES DISTRICT COURT

17 NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

19 CHASOM BROWN, WILLIAM BYATT,  
20 JEREMY DAVIS, CHRISTOPHER  
CASTILLO, and MONIQUE TRUJILLO,  
21 individually and on behalf of all similarly  
situated,

Case No. 5:20-cv-03664-LHK-SVK

**ADMINISTRATIVE MOTION TO SEAL  
JOINT CASE MANAGEMENT  
STATEMENT**

Referral: Hon. Susan van Keulen, USMJ

22 Plaintiffs,

23 v.

24 GOOGLE LLC,  
25 Defendant.

26

27

28

1           **I. INTRODUCTION**

2           Pursuant to Civil Local Rules 7-11 and 79-5, Defendant Google LLC (“Google”) respectfully  
 3    seeks to seal certain portions of the parties’ Joint Case Management Statement, which contains non-  
 4    public, sensitive confidential and proprietary business information that could affect Google’s  
 5    competitive standing and may expose Google to increased security risks if publicly disclosed. This  
 6    Court has previously sealed the same information. Dkts. 143, 152, 160. This Administrative Motion  
 7    pertains for the following information contained in the Joint Case Management Statement:

Document	Portions to be Filed Under Seal	Party Claiming Confidentiality
Joint Case Management Statement	Portions Highlighted in Yellow at 6:12-22, 8:2-3	Google

11           **II. LEGAL STANDARD**

12           A party seeking to seal material must “establish[] that the document, or portions thereof, are  
 13    privileged, protectable as a trade secret or otherwise entitled to protection under the law” (*i.e.*, is  
 14    “sealable”). Civ. L.R. 79-5(b). The sealing request must also “be narrowly tailored to seek sealing  
 15    only of sealable material.” *Id.*

16           In the context of dispositive motions, materials may be sealed in the Ninth Circuit upon a  
 17    showing that there are “compelling reasons” to seal the information. *See Kamakana v. City & Cty. of*  
*Honolulu*, 447 F.3d 1172, 1179-80 (9th Cir. 2006). However, a party seeking to seal information in a  
 19    non-dispositive motion must show only “good cause.” *Id.* at 1179-80. The rationale for the lower  
 20    standard with respect to non-dispositive motions is that “the public has less of a need for access to  
 21    court records attached only to non-dispositive motions because these documents are often unrelated,  
 22    or only tangentially related, to the underlying cause of action” and that as a result “[t]he public  
 23    policies that support the right of access to dispositive motions, and related materials, do not apply with  
 24    equal force to non-dispositive materials.” *Kamakana*, 447 F.3d at 1179; *see also TVIIM, LLC v.*  
*McAfee, Inc.*, 2015 WL 5116721, at \*1 (N.D. Cal. Aug. 28, 2015) (“Records attached to non-  
 26    dispositive motions are not subject to the strong presumption of access.”) (citation omitted). Under  
 27    the “good cause” standard, courts will seal statements reporting on a company’s users, sales,  
 28

1 investments, or other information that is ordinarily kept secret for competitive purposes. *See*  
 2 *Hanginout, Inc. v. Google, Inc.*, 2014 WL 1234499, at \*1 (S.D. Cal. Mar. 24, 2014); *Nitride*  
 3 *Semiconductors Co. v. RayVio Corp.*, 2018 WL 10701873, at \*1 (N.D. Cal. Aug. 1, 2018) (granting  
 4 motion to seal “[c]onfidential and proprietary information regarding [Defendant]’s products” under  
 5 “good cause” standard) (Van Keulen, J.).

6 A discovery statement is non-dispositive, and thus the good cause standard applies. *See e.g.*  
 7 *Pietersen v. Wells Fargo Bank, N.A.*, 2018 WL 10362631, at \*2 (N.D. Cal. Nov. 8, 2018) (“The  
 8 parties have filed two separate motions to seal portions of the discovery letter briefs that are pending  
 9 before the Court. Because the sealing requests were made in conjunction with a non-dispositive  
 10 discovery motion, a showing under the good cause standard will suffice.”). Although the materials  
 11 that Google seeks to seal here easily meet the higher “compelling reasons” standard, the Court need  
 12 only consider whether these materials meet the lower “good cause” standard.

13 **III. THE ABOVE IDENTIFIED MATERIALS SHOULD ALL BE SEALED**

14 Courts have repeatedly found it appropriate to seal documents that contain “business  
 15 information that might harm a litigant’s competitive standing.” *Nixon v. Warner Commc’ns, Inc.*, 435  
 16 U.S. 589, 589-99 (1978). Good cause to seal is shown when a party seeks to seal materials that  
 17 “contain[] confidential information about the operation of [the party’s] products and that public  
 18 disclosure could harm [the party] by disclosing confidential technical information.” *Digital Reg of*  
 19 *Texas, LLC v. Adobe Sys., Inc.*, 2014 WL 6986068, at \*1 (N.D. Cal. Dec. 10, 2014). Materials that  
 20 could harm a litigant’s competitive standing may be sealed even under the “compelling reasons”  
 21 standard. *See e.g. Icon-IP Pty Ltd. v. Specialized Bicycle Components, Inc.*, 2015 WL 984121, at \*2  
 22 (N.D. Cal. Mar. 4, 2015) (information “is appropriately sealable under the ‘compelling reasons’  
 23 standard where that information could be used to the company’s competitive disadvantage”) (citation  
 24 omitted). Courts in this district have also determined that motions to seal may be granted as to  
 25 potential trade secrets. *See, e.g. United Tactical Sys., LLC v. Real Action Paintball, Inc.*, 2015 WL  
 26 295584, at \*3 (N.D. Cal. Jan. 21, 2015) (rejecting argument against sealing “that [the party] ha[s] not  
 27 shown that the substance of the information . . . amounts to a trade secret”).

28

1       Here the Joint Discovery Statement comprises confidential and proprietary information  
 2 regarding highly sensitive features of Google’s internal systems and operations that Google does not  
 3 share publicly. Specifically, this information provides details related to the cookies and identifiers  
 4 Google uses internally and their proprietary functions. Such information reveals Google’s internal  
 5 strategies, system designs, and business practices for operating and maintaining many of its important  
 6 services while complying with its legal and privacy obligations.

7       Public disclosure of the above-listed information would harm Google’s competitive standing it  
 8 has earned through years of innovation and careful deliberation, by revealing sensitive aspects of  
 9 Google’s proprietary systems, strategies, and designs to Google’s competitors. That alone is a proper  
 10 basis to seal such information. *See, e.g., Free Range Content, Inc. v. Google Inc.*, No. 14-cv-02329-  
 11 BLF, Dkt. No. 192, at 3-9 (N.D. Cal. May 3, 2017) (granting Google’s motion to seal certain sensitive  
 12 business information related to Google’s processes and policies to ensure the integrity and security of  
 13 a different advertising system); *Huawei Techs., Co. v. Samsung Elecs. Co.*, No. 3:16-cv-02787-WHO,  
 14 Dkt. No. 446, at 19 (N.D. Cal. Jan. 30, 2019) (sealing confidential sales data because “disclosure  
 15 would harm their competitive standing by giving competitors insight they do not have”); *Trotsky v.*  
 16 *Travelers Indem. Co.*, 2013 WL 12116153, at \*8 (W.D. Wash. May 8, 2013) (granting motion to seal  
 17 as to “internal research results that disclose statistical coding that is not publically available”).

18       Moreover, if publicly disclosed, malicious actors may use such information to seek to  
 19 compromise Google’s internal identifier systems. Google would be placed at an increased risk of  
 20 cyber security threats. *See, e.g., In re Google Inc. Gmail Litig.*, 2013 WL 5366963, at \*3 (N.D. Cal.  
 21 Sept. 25, 2013) (sealing “material concern[ing] how users’ interactions with the Gmail system affects  
 22 how messages are transmitted” because if made public, it “could lead to a breach in the security of the  
 23 Gmail system”). The security threat is an additional reason for this Court to seal the identified  
 24 information.

25 **IV. CONCLUSION**

26       For the foregoing reasons, the Court should seal the identified portions of the Joint Case  
 27 Management Statement.

1 DATED: May 19, 2021

2 QUINN EMANUEL URQUHART &  
3 SULLIVAN, LLP

4 By /s/ Andrew H. Schapiro

5 Andrew H. Schapiro (admitted *pro hac vice*)  
6 andrewschapiro@quinnemanuel.com  
7 191 N. Wacker Drive, Suite 2700  
8 Chicago, IL 60606  
9 Telephone: (312) 705-7400  
10 Facsimile: (312) 705-7401

11 Stephen A. Broome (CA Bar No. 314605)  
12 stephenbroome@quinnemanuel.com  
13 Viola Trebicka (CA Bar No. 269526)  
14 violatrebicka@quinnemanuel.com  
15 865 S. Figueroa Street, 10th Floor  
16 Los Angeles, CA 90017  
17 Telephone: (213) 443-3000  
18 Facsimile: (213) 443-3100

19 Diane M. Doolittle (CA Bar No. 142046)  
20 dianedoolittle@quinnemanuel.com  
21 555 Twin Dolphin Drive, 5th Floor  
22 Redwood Shores, CA 94065  
23 Telephone: (650) 801-5000  
24 Facsimile: (650) 801-5100

25 Josef Ansorge (admitted *pro hac vice*)  
26 josefansorge@quinnemanuel.com  
27 1300 I. Street, N.W., Suite 900  
28 Washington, D.C. 20005  
Telephone: 202-538-8000  
Facsimile: 202-538-8100

29 Jomaire A. Crawford (admitted *pro hac vice*)  
30 jomairecrawford@quinnemanuel.com  
31 51 Madison Avenue, 22nd Floor  
32 New York, NY 10010  
33 Telephone: (212) 849-7000  
34 Facsimile: (212) 849-7100

35 Jonathan Tse (CA Bar No. 305468)  
36 jonathantse@quinnemanuel.com  
37 50 California Street, 22nd Floor  
38 San Francisco, CA 94111  
39 Telephone: (415) 875-6600  
40 Facsimile: (415) 875-6700

41 *Attorneys for Defendant Google LLC*